

Author: Assembly Budget Comm. Analyst: Kristina E. North Bill Number: AB 3009  
Related Bills: See Legislative History Telephone: 845-6978 Amended Date: June 29, 2002  
Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** Natural Heritage Preservation Tax Credit/Suspend Award of Credits for Fiscal Year 2002/2003

## SUMMARY

This bill would suspend the allocation of the Natural Heritage Preservation Tax Credit between July 1, 2002, and June 30, 2003.

This bill also would amend existing law regarding the surcharge on energy purchases. This provision does not impact the department or state income tax revenue and is not discussed in this analysis.

## SUMMARY OF AMENDMENTS

The June 29, 2002, amendments replaced the Revenue and Taxation Code (R&TC) Natural Heritage Preservation Tax Credit language with the language discussed in this analysis.

The June 24, 2002, amendments replaced the legislative intent language to fund educational programs with language to disallow the Natural Heritage Preservation Tax Credit in the R&TC for taxable years beginning on or after January 1, 2002, and before January 1, 2003.

This is the department's first analysis of this bill.

## PURPOSE OF THE BILL

According to the author's office, the purpose of this bill is to suspend the award of any Natural Heritage Preservation Tax credits for fiscal year 2002/2003 to increase state revenues.

## EFFECTIVE/OPERATIVE DATE

As a tax levy this bill would be effective immediately.

## POSITION

Pending.

Board Position:

<input type="checkbox"/> S	<input type="checkbox"/> NA	<input type="checkbox"/> NP
<input type="checkbox"/> SA	<input type="checkbox"/> O	<input type="checkbox"/> NAR
<input type="checkbox"/> N	<input type="checkbox"/> OUA	<input checked="" type="checkbox"/> PENDING

Department Director

Date

Gerald H. Goldberg

7/22/02

## **ANALYSIS**

### **FEDERAL/STATE LAW**

**Current federal and state tax laws** provide various tax credits designed to provide tax relief for taxpayers who incur certain expenses (e.g., child and dependent care credits) or to influence business practices and decisions or achieve social goals.

**Under the California Public Resources Code (PRC)**, the Natural Heritage Preservation Tax Credit Act of 2000 was established to encourage donations of land to the state, to local governments, or to designated nonprofit organizations.

An owner of land must apply to the Wildlife Conservation Board for approval to donate and to certify that the property satisfies certain requirements. If the Wildlife Conservation Board approves the contribution, the contributor of the property may receive a credit equal to 55% of the property's fair market value (FMV). The Wildlife Conservation Board is required to provide an annual listing to the Joint Legislative Budget Committee and the Franchise Tax Board (FTB) containing certain information about each donation.

The Wildlife Conservation Board was authorized to award no more than \$100 million in tax credits to qualified taxpayers beginning fiscal year 2000/2001. The Wildlife Conservation Board may not award tax credits after fiscal year 2004/2005 without further statutory authorization. Although the credit was enacted for use beginning in taxable year 2000, the Wildlife Conservation Board did not start allocating credits until 2001. The Wildlife Conservation Board may currently allocate the credit in fiscal years 2002/2003, 2003/2004, and 2004/2005.

The credits may be claimed on tax returns for taxable years 2002, 2003, 2004, and 2005. This credit can reduce regular tax below tentative minimum tax. Any excess credit may be carried forward for eight years, until the credit amount is exhausted.

### **THIS BILL**

This bill, under the PRC, would suspend the authority of the Wildlife Conservation Board to award Natural Heritage Preservation Tax Credits between July 1, 2002, and June 30, 2003, inclusive. Thus, any credits that were allocated before June 30, 2002, may be claimed on the 2002 tax return. Any credits that could have been allocated, but were not allocated, or any new credits that are allocated on or after July 1, 2003, could be claimed on the 2003 tax return, or subsequent tax returns. Carryover is not affected for previously awarded credits, credits awarded before June 30, 2002, or any credits allocated on or after July 1, 2003.

### **IMPLEMENTATION CONSIDERATION**

Taxpayers awarded Natural Heritage Preservation Tax Credits prior and subsequent to the suspension period of July 1, 2002, through June 30, 2003 could still claim the credit on their 2002 or 2003 income tax returns. This bill would not significantly impact the department's programs and operations.

## LEGISLATIVE HISTORY

**SB 1647** (O'Connell, Stats. 2000, Ch. 113) established the Natural Heritage Preservation Tax Credit Act of 2000 in the PRC and established the tax credits within the R&TC.

**SB 680** (O'Connell, 1999/2000) held in Assembly Appropriations; **SB 2080** (O'Connell, 1998) failed passage in Assembly Appropriations; **SB 87** (O'Connell, 1997) failed passage by the house of origin by January 31 of second year of session. All of these bills would have established the California Land and Water Conservation Act within the PRC and would have established tax credits within the R&TC similar to the Natural Heritage Preservation Tax Credit.

## OTHER STATES' INFORMATION

*Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York* laws do not provide a credit comparable to the credit addressed by this bill. The laws of these states were reviewed because their tax laws are similar to California's income tax laws.

## FISCAL IMPACT

This bill would not significantly impact the department's costs.

## ECONOMIC IMPACT

### Revenue Estimate

This bill is estimated to impact revenue gains as shown in the following table.

Revenue Impact Contributions Made During 2002 Enactment Assumed After June 30, 2002 (\$ Millions)			
Fiscal Year	2002/2003	2003/2004	2004/2005
Natural Preservation Credit	+\$4	-\$1	Minor*

\* Minor means <\$250,000.

This analysis does not consider the possible changes in employment, personal income, or gross state product that could result from this bill.

### Revenue Discussion

The revenue estimates above are based on projected awards by the Wildlife Conservation Board. Under current law, it is estimated that for the July 1, 2002, through June 30, 2003, period, approximately \$24 million would have been awarded. However, the revenue savings to the state would be much less due to the following:

- ◆ Since the awards are so large, taxpayers generally do not have enough tax liability to claim the full amount of the credit in the initial year. It is projected that it takes approximately five years of applying the credit against tax liability to exhaust it.
- ◆ The awards suspended by this bill may be allocated beginning July 1, 2003, which would increase the amount of carryover credits to subsequent years.

### **LEGISLATIVE STAFF CONTACT**

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